

Message Text

CONFIDENTIAL

PAGE 01 LONDON 02990 221702Z
ACTION VO-03

INFO OCT-01 EUR-12 ISO-00 CIAE-00 FBIE-00 INSE-00 NSAE-00
SCA-01 /017 W

-----221757 000738 /53

R 221642Z FEB 77
FM AMEMBASSY LONDON
TO AMCONSUL HAMILTON
INFO SECSTATE WASHDC 0848

C O N F I D E N T I A L LONDON 02990

E.O. 11652:GDS
TAGS: CVIS, SOCI BD
SUBJ: EXPUNGING RECORDS OF CRIMINAL CONVICTIONS

REF: HAMILTON 66

1. IN OCTOBER 1975, EMBASSY CONTACTED HOME OFFICE EX-
PLAINING REQUIREMENTS SECTION 212(A)(9) INA AND REQUEST-
ING THEIR ADVICE WHETHER COURT RECORDS WOULD REMAIN OB-
TAINABLE BY APPLICANTS WHO HAD BEEN CONVICTED OF CRIMES
COVERED BY REHABILITATION OF OFFENDERS ACT. ON DECEMBER
29, 1975, J. A. CHILCOT OF HOME OFFICE REPLIED.

2. QUOTE: WHILST SECTION 9 OF THE ACT CREATED A NEW
CRIMINAL OFFENCE DESIGNED TO PREVENT IMPROPER DISCLOS-

URE FROM OFFICIAL RECORDS OF INFORMATION ABOUT SPENT
CONVICTIONS, THIS SHOULD NOT HAVE THE EFFECT OF PRE-
VENTING A REHABILITATED PERSON OBTAINING A CERTIFICATE
OF HIS OWN CONVICTION FROM THE COURT AT WHICH HIS CASE
WAS DEALT WITH. SECTION 9(3) OF THE ACT CLEARLY INDI-
CATES THAT THE CRIMINAL OFFENCE DOES NOT APPLY TO DIS-
CLOSURE TO THE REHABILITATED PERSON, NOR TO A PERSON
WHOM THE KEEPER OF THE RECORDS REASONABLY BELIEVED TO BE
THE REHABILITATED PERSON.

CONFIDENTIAL

CONFIDENTIAL

PAGE 02 LONDON 02990 221702Z

3. THIS DOES NOT, OF COURSE, MEAN THAT THE COURTS' STAFF
SHOULD NECESSARILY REGARD IT AS PART OF THEIR DUTIES TO
PROVIDE CERTIFICATES OF CONVICTION TO PROSPECTIVE EMI-
GRANTS, AND THEY ARE UNDER NO STATUTORY OBLIGATION TO DO
SO. FROM ENQUIRIES I HAVE MADE, HOWEVER, I UNDERSTAND
THAT MOST COURTS WOULD AND DO NORMALLY PROVIDE CERTIFI-

CATES IN THESE CIRCUMSTANCES, AND TO THE EXTENT THAT IS SO, THERE IS NO REASON IN LAW WHY THE REHABILITATION OF OFFENDERS ACT SHOULD MAKE ANY DIFFERENCE.

4. IT IS POSSIBLE THAT SOME COURTS' STAFF HAVE NOT YET FULLY UNDERSTOOD THE EFFECTS OF THIS RATHER COMPLEX ACT, AND MAY AS A RESULT BE EXERCISING EXCESSIVE CAUTION IN RELATION TO DETAILS OF SPENT CONVICTIONS, EVEN WHEN REQUESTED BY THE REHABILITATED PERSON HIMSELF. ANY DIFFICULTIES ARISING FROM THIS SHOULD RESOLVE THEMSELVES AS COURTS' STAFF (SIC) BECOME MORE FAMILIAR WITH THE REQUIREMENTS OF THE ACT. ... END QUOTE.

5. EMBASSY HAS FOUND THAT VERY RARELY DOES PARTICULAR COURT REFUSE TO PROVIDE TO THE INDIVIDUAL COPIES OF MEMORANDA OF CONVICTION FOR CRIMES WHICH ARE NOW "SPENT". OCCASIONALLY, VISA APPLICANTS PROVIDE NOTARIZED STATEMENTS AUTHORIZING EMBASSY TO REQUEST RECORDS. THIS IS SENT TO APPROPRIATE COURT UNDER COVER OF LETTER EXPLAINING REQUIREMENT OF SECTION 212(A)(9) INA. IN EACH INSTANCE RECORDS HAVE BEEN PROVIDED TO US.

BEGIN CONFIDENTIAL:

6. AT TIMES INS HAS REQUESTED THAT WE OBTAIN COPIES OF

RECORDS OF CONVICTION. ORDINARILY WE ADVISE SERVICE TO HAVE APPLICANT REQUEST COURT RECORD DIRECTLY FROM COURT WHERE HE WAS CONVICTED. WE HAVE ALSO OFFERED TO OBTAIN COURT RECORDS FOR INS UPON RECEIPT OF NOTARIZED CONFIDENTIAL

CONFIDENTIAL

PAGE 03 LONDON 02990 221702Z

AUTHORIZATION OF APPLICANT. IF APPLICANT IS UNWILLING, OR UNAVAILABLE TO PROVIDE NOTARIZED STATEMENT, WE HAVE SUGGESTED THAT INS CONTACT LOCAL OFFICE FBI, WHO HAVE GREATER SUCCESS IN OBTAINING COURT RECORDS THROUGH THEIR REPRESENTATIVES ABROAD. END CONFIDENTIAL.

7. COPY OUR FILE ON REHABILITATION OF OFFENDERS ACT TO FOLLOW.

ARMSTRONG

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Message Attributes

Automatic Decaptioning: X
Capture Date: 01-Jan-1994 12:00:00 am
Channel Indicators: n/a
Current Classification: UNCLASSIFIED
Concepts: REPORTS, LAW, COURT DECISIONS, INFORMATION CONTROL
Control Number: n/a
Copy: SINGLE
Sent Date: 22-Feb-1977 12:00:00 am
Decaption Date: 01-Jan-1960 12:00:00 am
Decaption Note:
Disposition Action: RELEASED
Disposition Approved on Date:
Disposition Case Number: n/a
Disposition Comment: 25 YEAR REVIEW
Disposition Date: 22 May 2009
Disposition Event:
Disposition History: n/a
Disposition Reason:
Disposition Remarks:
Document Number: 1977LONDON02990
Document Source: CORE
Document Unique ID: 00
Drafter: n/a
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Executive Order: GS
Errors: N/A
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